IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 632 OF 2006

M/s. Vinsun Engineering Co. & ors. ... Petitioners

V/s

Smt. Leelavati N. Parekh & ors. ... Respondents

Mr. R.A. Thorat with P.J. Thorat for the petitioners.

Mr. A.K. Abhyankar for respondent Nos. 2 & 3.

CORAM: P.V. KAKADE, J.

DATED: 27TH FEBRUARY, 2006

P.C.:

1. Heard both sides. Perused the record.

2. This petition is filed against the order passed by the lower appellate Court dated 20.10.2005 in Revision Application No. 126 of 2005 in R.A.D. Suit No. 814 of 1999 whereby the lower Court's order pertaining to admission of the documents on record in the pending suit, was modified and Rule was made partly absolute with direction that at particular stage the documents should be admitted and exhibited in evidence and rest of the documents should be kept as per marking given by the

Trial Court for identification but should not be admitted in evidence and exhibited.

3. With the assistance of both parties, I have perused the orders passed by both the Courts below. It appears that there is practice in the Small Causes Court with regard to the admission of the documents in the suit. I am informed that, as per the prevailing practice, the documents putforth and produced by the parties are initially marked and admitted and Exhibited in evidence only after those are proved or are held admissible in evidence and then exhibited.

4. In this matter, there appears to be dispute pertaining to seven documents produced on record which the lower appellate Court refused to admit in evidence and said documents were marked as Y-1, Y-2 (Colly.), Y-11 (Colly.), Y-12 (Colly.), Y-13, Y-24 and Y-34. It was submitted on behalf of the petitioner that all these documents are not only relevant but are also admissible in evidence and, therefore, the order passed by the lower appellate Court suffers from infirmity while rejecting to admit those documents in evidence and accept the same in the pending suit.

5. After considering the facts and circumstances involved in the matter and after hearing both parties, I am of the view that a short direction to the Trial Court would suffice to resolve the dispute taking into account the said practice of the Small Causes Court, Mumbai, followed for the purpose of production of documents and further steps in that regard.

The lower appellate Court observed rest of the documents are not admitted in evidence and are kept as per marking given by the Trial Court for identification. It is further directed in addition to the said observation that, the impugned seven documents which are marked but not included in the evidence and exhibited, shall be included in the evidence and duly exhibited if and when those are duly proved according to law for which purpose the petitioner will be given full opportunity to prove the same through rule of evidence according to law by way of examining witnesses or leading supporting evidence in that regard.

With these directions, the petition stands disposed of with no order as to costs.

6. The Trial Court is directed to take note of the

observations made by this Court while adjudicating the dispute and relevant documents on record.

I am further informed that the suit for eviction is about 25 years' old. Therefore, by consent of both parties the suit is directed to be expedited so as to dispose of it on merits within a period of six months from the date of this order.

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